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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,315	10/14/2003	Richard Anthony Whiting	15-838C1	5033

7590 07/27/2004

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EXAMINER

AMIRI, NAHID

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/685,315

Applicant(s)

WHITING, RICHARD ANTHONY

Examiner

Nahid Amiri

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 12, 13, 15, 16, 18 and 25 is/are pending in the application.
- 4a) Of the above claim(s) 12, 15, 16, 18 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 14 October 2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a) because they fail to show **Figs. 4A and 4B** as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: at page 11, lines 21 and 23, applicant is referring to Figs. 4A and 4B which are missing from the drawings and detailed description.

Appropriate correction is required.

Art Unit: 3635

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12, 15-16, 18, 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 12, 15-16, 25 are in improper form because they depended on canceled claims 11, 15 and 23. Accordingly, claims 12, 15-16, 25 have not been further treated on the merits.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-2 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,631,594 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Claim 1 of US Patent 6,631,594 contains all of the limitations of claims 1-2 of applicant's invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-9, 13 are rejected under 35 U.S.C. 102(b) as being anticipated by 5,927,027 Richardson.

In regard to claim 1: Richardson discloses the claimed invention at Fig. 2, showing a main support 24 and rafter support member 20 which extending outwardly from the main support member 24 with a securing means 46 provided on the rafter support member 20 at an edge region of the support member 20, wherein the securing means 46 has upstanding means 48 extending from rafter support member 20.

In regard to claim 2: Richardson discloses the claimed invention at Figs. 2-3, showing the upstanding means 48 with a first upstanding member 48 extending from rafter support member 20 and a second member 64 extending from the first member 48 back toward the rafter support member 20.

In regard to claim 3: Richardson discloses the claimed invention at Figs. 2-3, showing the second member 64 extending inwardly of the rafter support member 20 and the upstanding means 48 defining a recess (78 projects into this recess) allowing the cooperating part 78 to move to accommodate a preselected position of the rafter assembly 22.

In regard to claim 5: Richardson discloses the claimed invention at Figs. 2-3, showing the securing means 48 including a stop member 64, whereby the cooperating part 78 is held between the recess (78 projects into this recess) and the holding portion 64.

In regard to claims 6-7: Richardson discloses the claimed invention at Figs. 2-3, showing the rafter support member 20 extending outwardly in opposite directions along one edge region of the main support member 24, each of a support members 24 comprising the securing means 46.

In regard to claim 8: Richardson discloses the claimed invention at Fig. 2, showing the second rafter support member 20 extending on opposite sides of the main support member 24 and securing means 46.

In regard to claim 9: Richardson discloses the claimed invention at Figs. 2-3, showing the upstanding means 48 with a step 53 extending outwardly of the rafter support member 20.

In regard to claim 13: Richardson discloses the claimed invention at Figs. 2-3, showing a rafter assembly comprising a rafter 22 and a securing member 66, which includes a cooperating part 78.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson in view of US Patent No. 6,223,481 B1 to Rickman.

In regard to claim 4: Richardson discloses the claimed invention except for a pivot receiving means with a curved portion of the second member for receiving a pivot on the securing member. Rickman teaches at Fig. 2, showing a pivot receiving means 47 with a curved portion of the second member for receiving the pivot 48, which allows the rafter assembly to pivot to desirable position about the pivot receiving means 47. It would have been obvious to one of ordinary skill in the art at the time of invention was made to use a pivot as in Rickman in the structure of Richardson in order to allow pivoting movement of the rafters.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 4,385,850 Bobath

US Patent No. 4,114,330 Sukolics

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nahid Amiri whose telephone number is (703) 305-4241 and Fax number is 703-305-7687. The examiner can normally be reached on Monday-Friday from 8:00-5:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Carl Friedman can be reached at (703) 308-0839.

na 

July 19, 2004


Carl D. Friedman
Supervisory Patent Examiner
Group 3600